

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

(1) Rafiq Davis HY9350
(Name of Plaintiff) (Inmate Number)

P.O. Box 244 Graterford, PA 19426
(Address)

(2) _____
(Name of Plaintiff) (Inmate Number)

(Address)

(Each named party must be numbered,
and all names must be printed or typed)

vs.

CIVIL COMPLAINT

(1) Superintendent Vincent Mooney

(2) Deputy Miller

(3) Deputy Lascavage
(Names of Defendants)

(Each named party must be numbered,
and all names must be printed or typed)

FILED
SCRANTON

JUL 24 2014

PER [Signature]
DEPUTY CLERK

TO BE FILED UNDER ☒ 42 U.S.C. § 1983 - STATE OFFICIALS
☐ 28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. PREVIOUS LAWSUITS

- A. If you have filed any other lawsuits in federal court while a prisoner, please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

09-0442, Rafiq Davis v. City of Philadelphia, et al, Mitchell S. Goldberg

13-6973, Rafiq Davis v. City of Philadelphia, et al, Mitchell S. Goldberg

Defendants

4. Intelligence Captain Stetler
1 Kelley Drive
Coal Township, PA 17866
5. Lieutenant Shife
1 Kelley Drive
Coal Township, PA 17866
6. Correctional Officer Hopwood
1 Kelley Drive
Coal Township, PA 17866
7. Correctional Officer Schell
1 Kelley Drive
Coal Township, PA 17866
8. Correctional Officer Trainee John Die
1 Kelley Drive
Coal Township, PA 17866
9. Program Review Committee (PRC)
1 Kelley Drive
Coal Township, PA 17866
10. Unit Manager Foulds
1 Kelley Drive
Coal Township PA 17866
11. Unit Manager Thomas Williams
1 Kelley Drive
Coal Township, PA 17866
12. Counselor Rich Cory
1 Kelley Drive
Coal Township, PA 17866
13. Counselor Fettermen
1 Kelley Drive
Coal Township PA 17866
14. SCI-Coal Township Medical Depart.
1 Kelley Drive
Coal Township PA 17866
~~Coal Township PA 17866~~
~~Coal Township PA 17866~~
15. Attorney General
16th Floor Strawberry Square
4th & Walnut Streets
Harrisburg, PA 17102
16. Sgt. Kimmberl
1 Kelley Drive
Coal Township, PA 17866
17. Sgt. Benson
1 Kelley Drive
Coal Township, PA 17866
18. Lieutenant Carpenter
1 Kelley Drive
Coal Township, PA 17866
19. PA Department of Corrections
state
1920 Technology Parkway
Harrisburg, PA 17050

• Each Defendant is ~~is~~ sue individually and in his/her official capacity. At all times mentioned in this complaint each defendant acted under the color of state Law.

II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

In order to proceed in federal court, you must fully exhaust any available administrative remedies as to each ground on which you request action.

- A. Is there a prisoner grievance procedure available at your present institution? ☒ Yes ☐ No
- B. Have you fully exhausted your available administrative remedies regarding each of your present claims? ☐ Yes ☒ No
- C. If your answer to "B" is Yes:

1. What steps did you take? _____

2. What was the result? _____

- D. If your answer to "B" is No, explain why not: Was waiting for a response from the Superintendent but I never received one before/After I was released on April 7, 2014.

III. DEFENDANTS

- (1) Name of first defendant: Superintendent Vincent Mooney

Employed as Superintendent at SCI-Coal Township
Mailing address: 1 Kelley Drive, Coal Township, PA 17866

- (2) Name of second defendant: Deputy Miller

Employed as Deputy at SCI-Coal Township
Mailing address: 1 Kelley Drive, Coal Township, PA 17866

- (3) Name of third defendant: Deputy Lascavage

Employed as Deputy at SCI-Coal Township
Mailing address: 1 Kelley Drive, Coal Township, PA 17866

(List any additional defendants, their employment, and addresses on extra sheets if necessary)

IV. STATEMENT OF CLAIM

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach no more than three extra sheets if necessary.)

1. On 1-5-14, I was stabbed and assaulted by another inmate (Jesse Wade) while I was returning in from afternoon yard activities at Gate 5 (I was stabbed in right temple and suffered bruises and abrasions around left eye and nose).

2. Prior to incident, a couple days prior when inmate Wade moved to my Housing Unit in the evening, we engaged in a brief argument during evening dayroom activities where inmate Wade threatened to kill me before I left on Parole ~~because~~ because I was a snitch And also threatened to kill my family whenever he was released. He even made several attempts to enter my cell.
3. The Next Morning, Prior to argument and threats, I expressed my concern about me Fearing for my life and safety with the block Counselor Mr. Cory in regards to Mr. Wade and explained that I even tried to place separations on Mr. Wade several times in the past and even requested protective custody but nothing was done and ~~nothing~~ informed him that either Me or Mr. Wade need to be moved to avoid any physical altercations but he refused to do anything and told me that I need to speak with Unit Manager Mr. Williams because he's in charge of the moves.

V. RELIEF

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. ~~Granting Plaintiff a declaration that the acts and omissions described herein violate his rights under the constitution and laws of the United States, and~~
Granting Plaintiff a declaration that the acts and omissions described herein violate his rights under the constitution and laws of the United States, and
2. Granting Plaintiff compensatory and punitive damages in the amount of \$10,000,000.00 against each defendant, jointly and severally.
3. Plaintiff also seeks a jury trial on all issues triable by jury,

Statement of Claim

- Afternoon on the compound to the dining hall, I spoke with Unit Manager Mr. Williams and explained everything to him about/in regards to Mr. Wade and me fearing for my life and safety around him and that he threatened to kill me and my family and I requested ~~to~~ to either move me or Mr. Wade to avoid any physical altercations but instead he joked and mocked my concerns and did nothing.
5. A few days later I was stabbed and assaulted by Mr. Wade on 1-5-14 and the Guards did nothing but stand there and watch until Mr. Wade decided to stop on his own will and I was even yelling for the guards to help me but they refused to intervene.
 6. I was then handcuffed and being escorted to medical when C/O Hopwood walked up to me, in the middle of the East Compound, and said to me that it looks like your not going home now and winked his eye before walking off.
 7. At medical a Female nurse took pictures and cleaned injuries but refused to give me any pain medication even after I described the great deal of pain I was experiencing. Also, no Tecnick shot was given. I also explained that the vision in my right eye was partially blurred/blurry and she told me that was normal and my vision would be back to normal in the next couple days which it didn't.
 8. Also at Medical, I explained to Lieutenant Carpenter everything that happened and that I was the victim and I also explained that I have even tried to place separations on Inmate Wade numerous times in the past and even requested to take protective custody because I feared for my life around Inmate Wade and how Lieutenant Shire lied to me promising that he was going to make sure nothing was going to happen to me.
 9. Sgt. Kimmbrel and Sgt. Benson, who was also at the medical department because they escorted me there, told Lieutenant Carpenter that they never saw me through a single punch.
 10. I was then taken to the RHU where I received a Misconduct report prepared by C/O Hopwood stating "that me and Inmate Wade were exchanging closed fist punches" which was completely false which intentions to ruin my Parole.
 11. A couple days later, I went to the RHU property room to receive my property and complained about the False Misconduct report prepared by C/O Hopwood and again about me and my attempts to place separations on Inmate Wade in the past and he placed in protective custody ~~because~~ for my safety and Lieutenant Carpenter told me he personally reviewed the cameras and stated that C/O Hopwood was nowhere around/near incident and that he was somewhere in the middle of the East Compound before and after incident so it was impossible for him to see anything.
 12. Shortly after the Guards in the RHU moved inmate Wade from one pod in the RHU to the pod I was on intentionally to embarrass me in front of other inmates and they told inmate Wade to let everyone know that I was snitching on him in-exchange he will beat the Misconduct reports and will be released from the RHU. Inmate Wade also found out about the separations I tried to place on him in the past and that I was requesting to take protective custody from the Guards which he also informed other inmates about.
- Note: Inmate Wade received to Misconduct reports one prepared by C/O Hopwood stating "Me and Inmate Wade was exchanging closed fist punches" and the other Misconduct report was prepared by another guard stating he stabbed and assaulted me and the knife he used was found. Inmate Wade's both Misconducts were dismissed and he was released back to population.
13. While I was in the RHU, I requested several times to be placed in protective custody to the Superintendent Vincent Mooney, Intelligence Captain Steller, Deputy Miller, Deputy Kascavage, and the PRC about my fearing for my life and safety, once again repeatedly, on general population but they all refused to interview me and place me in protective custody once again. I even had Lewisburg, David Sprout, personally send a letter to Superintendent Vincent Mooney requesting that I be placed in Protective Custody and still wasn't interviewed nor seen.
 14. When I was placed back in general population, after False Misconduct report prepared by C/O Hopwood was dismissed, on 1-30-14, I immediately spoke with the Unit Manager on the Housing Unit, Ms. Foulds, and requested to be placed in protective custody due to me fearing for my life and safety and explained everything to her and she refused to do anything. Instead, she told me to write her a request slip which I did but she never answered it.

Statement of Claims

15. I also spoke with the Housing Units Counselor Ms. Fetterman and requested to be placed in protective custody and explained everything to her about me fearing for my life and safety and refused to do anything as well. I also wrote her request slips about it but she never answered.
16. While I was out of the RHU (after incident), I was harassed, embarrassed in front of other inmates, and physically threatened by C/O Hopwood on numerous occasions because I would not withdraw the grievance on him in regards to the incident on 1-5-14. He threatened to "Fuck me up if I was a little bit older," he told other inmates that I was a "pussy" and told them that I was trying to take protective custody, he called me out of my name and made fun of my name by mispronouncing my name. I filed grievances on every incident. He even came to my cell one time and blew his electronic cigarette smoke at my cell door window while I was looking out it.

~~17. C/O Hopwood~~

17. C/O Hopwood had other guards retaliate against me for filing grievances on him.

18. C/O Schell and Correctional Officer Trainee John Doe both prepared false misconduct reports with intentions to ruin my granted parole status out of retaliation for filing grievances on C/O Hopwood and each misconduct report they prepared both made fun of my name by using and spelling my name with one of the names C/O Hopwood calls me "Rafiki", which I filed grievances about C/O Hopwood calling me that name days before I received both misconducts using that name. With intentions to ruin my current granted parole status.

Note: Nowhere on record or file is my name spelled and/or pronounced like that and all paper work, records and files uses the correct spelling of my name. Even on all past misconducts I received my name is spelled correctly and misconducts were dismissed by hearing Examiner due to me proving retaliation.

19. In the past prior to incident on 1-5-14 I have contacted Timothy Riskus (The security Major at Central office) in writing twice with requests to take protective custody due to me fearing for my life at SCI-Coal Township and even provided a list of inmates names that I needed to be protected from including inmate Wade's name. Where Major Timothy Riskus forwarded my concerns to SCI-Coal Township and I spoke with Lieutenant Shife about my concerns and informed him that I need separations on those inmates including inmate Wade and he told me that he's not placing me on protective custody, even though ~~he said~~ I informed him my life was in danger around these inmates, and that he promises that nothing was going to happen to me by making sure I was protected and made me sign a paper Major Timothy Riskus sent him using his own words and when I refused to sign he told me that I will be there all night until I sign stating that he took care of the matter. Which all was a lie. This happened sometime around the end of 2010 and then it happened again around June of 2012 after I contacted Major Timothy Riskus again for the second time and submitted a request slip to the Superintendent about me fearing for my life and that my life was in danger which I provided again a list of names of inmates that I needed to be protected from including inmate Wade's but this time Lieutenant Shife sent security officers to my cell who took me out my cell and placed me in a strip cage and told me that there not placing me in protective custody or putting separations on the other inmates because Lieutenant Shife informed us that he's going to make sure nothing happens to you and that I need to stop being scared of nothing and the Lieutenant Shife told us to tell you to write a request slip to the Superintendent stating you ~~don't~~ don't fear for your life and that he going to speak with you when you return back to population after doing your RHU time which I did and Lieutenant Shife only spoke to me one time when I came out of the RHU and never again after that.

20. I was never given any pain medication to treat the pain I was experiencing from the injuries I received on 1-5-14 until two days later which I was prescribed only two Motrins (one in morning and one at night) to treat pain.

ed numerous sick calls explaining the great deal of pain I was experiencing and that the motrin I was taking wasn't doing anything for the pain but the Medical department refused to perscribe me any other pain medication but the two motrins. I was in pain for eleven days until the pain went away on its own then soon after that I start experiencing migraine headaches.

22. Also due to me being stabbed and assaulted (stabbed in my right Temple) my right eye is now permanently partially blurred.

Legal Claims

23. Defendants Lieutenant Shife, Intelligence Captin Stetter, Superintendent Vincent Mooney, Unit Manager Thomas Williams and Counselor Rich Cory's actions Violated Plaintiff Rafiqg Davis's rights under the Eighth Amendment to the United States Constitution by failing to protect Plaintiff from being attacked by another inmate after they were made aware of the substantial risk Plaintiff would be seriously harmed by inmate Wade, disregarding an excessive risk to Plaintiff's safety by repeatedly refusing to place plaintiff in protective custody and refusing to place seperations on Inmate Wade in which their actions violated prison policy and showed negligence and inadequate care which caused Plaintiff pain, suffering, physical injury and emotional distress and mental Distress. (Defendant Program Review Committee (PRC) as well).
24. Defendants Unit Manager Foulds, Counselor Fetterman, Deputy Miller, and Deputy Lascavage actions violated plaintiff Rafiqg Davis' rights under the Eighth Amendment to the United States Constitution by denying plaintiff protective custody knowing that Plaintiff life, safety, and Freedom was in danger in which their actions violated prison policy which caused Plaintiff emotional Distress and mental Distress.
25. Defendants Lieutenant Carpenter, Sgt. Benson, and Sgt. Kimmbrel by witnessing Defendant Hopwood's illegal action, Failed to correct that misconduct and encouraged the continuation of the Misconduct, they also violated Plaintiff's rights under the Eighth Amendment cusing plaintiff pain, suffering, and mental and emotional distress.
26. By Falsifying reports, harrassing, ~~retaliating~~ and threatening Plaintiff with Physical Violence For exercise of his right to seek redress from the prison through use of the prison grievance system Defendant Hopwood is retaliating against Plaintiff unlawfully, in violation of Plaintiff rights under the First Amendment of the United States Constitution. These illegal actions caused plaintiff injury to his First Amendment rights.
27. By perparing false reports for exercising of his right to seek redress from the prison through use of the prison grievance system, Defendant Schell and Trainee John Doe is retaliating against plaintiff Davis unlawfully, in violation of Plaintiff's rights under the First Amendment to the United States Constitution. These illegal actions caused Plaintiff injury to his First Amendment rights.
28. Plaintiff's rights under the First and Eighth Amendment to the United States Constitution were violated by the above said Defendants For the above said reasons in which each defendant showed deliberate indifference for the above said reasons and acted under Color of State Law.
29. The ~~PA~~ PA Department of Correction-state is who employes each defendant and is responsible for each and every Defendant actions.

4. Plaintiff also seeks recovery of their costs in this suit, and
5. Any additional relief this court deems just, proper, and equitable.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 7th day of July, 2014.




(Signature of Plaintiff)

Rafiq Davis HY9350
P.O. Box 244
Greer, SC 29615
NO FEES ENCLOSURE

RECEIVED
SCRANTON

JUL 24 2014

PER  DEPUTY CLERK

Haster

07/22/2014

US POSTAGE \$000.90⁰



ZIP 19426

011D12603070

United States District Court
Middle District of Pennsylvania
William S. Nealon Federal Bldg. & U.S. Courthouse
200 North Washington Ave
P.O. Box 1148
Scranton, PA 18501-1148

1850131148

